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District of Oregon

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Attorneys for Petitioner

FILED 18 AUG '11 14:27 USDC-ORE

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION**

UNITED STATES OF AMERICA,

Civil No. 11-6258-AA

Petitioner,

v.

**PETITION TO ENFORCE INTERNAL
REVENUE SERVICE SUMMONS**

DAVID M. MARTINEZ,

Respondent.

Petitioner, United States of America, by Dwight C. Holton, United States Attorney for the District of Oregon, and through Tim Simmons, Assistant United States Attorney (AUSA) for the District of Oregon, petitions this Court to enforce the Internal Revenue Service Summons issued in the name of Respondent David M. Martinez. Petitioner United States submits the following as grounds for this petition. This proceeding is brought pursuant to the provisions of the Internal

Revenue Code of 1986, 26 U.S.C. §§ 7402(b) and 7604(a), to judicially enforce an Internal Revenue Service summons.

1. Sandra Pasman (IRS ID# 450847) is a duly commissioned Revenue Officer employed in the Small Business/Self Employed Division, Area 6, Office of the Area Manager, Internal Revenue Service, and is authorized to issue an Internal Revenue Service summons pursuant to the authority contained in 26 U.S.C. § 7602, and Treasury Regulation § 301.7602-1, 26 C.F.R. § 301.7602-1.
2. Respondent David M. Martinez, resides at 4390 Donald Street, Eugene, Oregon, 97405-3430, within the jurisdiction of this Court.
3. Revenue Officer Sandra Pasman is conducting an investigation to determine and collect the tax liability of Respondent for the period ending December 31, 2009, as set forth in the Declaration of Revenue Officer Pasman, filed in support of this petition.
4. Respondent is believed to be in possession and control of books, records, papers, and other data which are relevant to the above-described investigation.
5. On June 14, 2011, Revenue Officer Sandra Pasman issued an Internal Revenue Service summons to Respondent, directing Respondent to appear before Revenue Officer Pasman on June 27, 2011, at 10:00 a.m., to testify and to produce the books, records, and other documents listed in the summons. An attested copy of the summons was served by personal service on David M. Martinez by Revenue Officer Sandra Pasman, on June 14, 2011. The summons is attached hereto and incorporated herein as Exhibit 1.
6. On June 27, 2011, Respondent did not appear in response to the summons.

7. On July 1, 2011, the Office of Chief Counsel for the Internal Revenue Service issued a "Last chance" letter demanding Respondent appear for a meeting on July 22, 2011 at 10:00 a.m. A copy of that letter is attached hereto and incorporated herein as Exhibit 2.
8. On July 22, 2011, Respondent did not appear in response to the "last chance" meeting.
9. The books, papers, records, or other data sought by the summons are not already in possession of the Internal Revenue Service.
10. All administrative steps required by the Internal Revenue Code for the issuance of a summons have been taken.
11. It is necessary to obtain the testimony and examine the books, papers, records, or other data sought by the summons in order to properly collect the federal tax liability of Respondent for the period ending December 31, 2009, as set forth in the Declaration of Revenue Officer Sandra Pasman, filed in support of this petition.

PRAYER FOR RELIEF

WHEREFORE, petitioner respectfully prays:

1. That the Court issue an order directing Respondent to show cause, if any, why Respondent should not comply with and obey the aforementioned summons and each and every requirement thereof.
2. That the Court enter an order directing Respondent to comply with the aforementioned summons and each and every requirement thereof by ordering the attendance, testimony, and production of the books, papers, records, or other data as is required and called for by the terms of the summons before Revenue Officer Sandra Pasman or any other proper

officer or employee of the Internal Revenue Service at such time and place as may be fixed by Revenue Officer Pasman, or any other proper officer or employee of the Internal Revenue Service.

3. That the United States recover its costs in maintaining this action.
4. That the Court grant such other and further relief as is just and proper.

Dated this 18th day of August, 2011.

Respectfully submitted,

DWIGHT C. HOLTON
United States Attorney
District of Oregon



TIM SIMMONS
Assistant United States Attorney
Attorney for Petitioner United States



Summons

Income Tax Return

In the matter of DAVID M & PAULA R MARTINEZ, 4390 DONALD ST. EUGENE, OR 97405-3430

Internal Revenue Service (Identify Division) SMALL BUSINESS/SELF EMPLOYED

Industry/Area (Identify by number or name) SB/SE AREA 6 (26)

Periods: Form 1040 for the calendar period ending December 31, 2009

The Commissioner of Internal Revenue

To: DAVID M MARTINEZ

At: 4390 DONALD ST. EUGENE, OR 97405-3430

You are hereby summoned and required to appear before SANDRA PASMAN, an Internal Revenue Service (IRS) officer, to give testimony and to bring for examination the following information related to the tax liability of the person identified above for the periods shown:

All documents and records you possess or control about income you received for the years: 2009

These records and documents include, but are not limited to: Forms W-2 (Wage and Tax Statement), Forms 1099 for interest and dividend income, employee earnings statements, and records of deposit with banks or other financial institutions.

Also include all other books, records, documents and receipts for income from, but not limited to, the following sources: wages, salaries, tips, fees, commissions, interest, rents, royalties, alimony, state or local tax refunds, annuities, life insurance policies, endowment contracts, pensions, estates, trusts, discharge of indebtedness, distributive shares of partnership income, business income, gains from dealings in property, and any other compensation for services (including receipt of property other than money). Include all documents and records about any income you assigned to any other Person or entity.

IRS will use this information to prepare a federal income tax return for the following year(s) when you didn't file a return: 2009

We have attached a blank return to guide you in producing the necessary documents and records.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

211 E 7TH AVE STE 301, EUGENE, OR 97401 (541) 342-8725

Place and time for appearance: At 211 E 7TH AVE STE 301, EUGENE, OR 97401



Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 6638 (Rev. 10-2010)
Catalog Number 61828W

on the 27th day of June, 2011 at 10:00 o'clock a m.

Issued under authority of the Internal Revenue Code this 14th day of June, 2011

SANDRA PASMAN

Signature of issuing officer

REVENUE OFFICER

Title

Signature of approving officer (if applicable)

Title

Original -- to be kept by IRS



Certificate of Service of Summons

(Pursuant to section 7603, Internal Revenue Code)

certify that I served the summons shown on the front of this form on:

Date

6/14/11

Time

1 PM

How



I handed an attested copy of the summons to the person to whom it was directed.

Summons

Was



I left an attested copy of the summons at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any):

Served

Signature

Title

Revenue Officer

I certify that the copy of the summons served contained the required certification.

Signature

Title

Revenue Officer



OFFICE OF THE CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
OFFICE OF DIVISION COUNSEL
SMALL BUSINESS/SELF-EMPLOYED
620 S.W. MAIN ST., ROOM 312
PORTLAND, OR 97205
(503) 415-8820
FAX: (503) 952-7277

JUL - 1 2011

CC:SB:7:POR:2:BLed
GL-12773-11

Via Regular Mail, Certified Mail

David Martinez, President of Carmen's Chips, Inc.
1298 Bethel Drive
Eugene, OR 97402-2003

David Martinez
4390 Donald Street
Eugene, OR 97405-3430

Dear Mr. Martinez:

Small Business/Self-Employed North Area 6 of the Internal Revenue Service has notified our office that you did not comply with the provisions of the summonses served on you on June 14, 2011. Under the terms of the summonses, you were required to appear before Revenue Officer Sandra Pasman on June 27, 2011, and produce all documents and information requested in the summonses. You did not appear for the June 27, 2011 meeting.

Legal proceedings may be brought against you in the United States District Court for not complying with these summonses. To avoid such proceedings, you are to appear before Revenue Officer:

Name: Sandra Pasman
Date: July 22, 2011
Time: 10:00 AM
Address: 211 E 7th Avenue
Suite 301
Eugene, OR 97401

GL-12773-11

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Any books, records or other documents called for in the summonses should be produced at that time. If you have any questions, please contact Revenue Officer Sandra Pasman at (541) 342-8725.

Sincerely,

PATRICIA A. DONAHUE
Area Counsel
(Small Business/Self-Employed:Area 7)

By: Catherine J. Caballero
Catherine J. Caballero
Associate Area Counsel (Portland, Group 2)
(Small Business/Self-Employed)

Enclosures (2)

Copies of summonses served on June 14, 2011

cc: Sandra Pasman, Revenue Officer